

In the High Court of Judicature at Madras

Dated: 16.11.2006

Coram:

The Hon'ble Mr.Justice V.RAMASUBRAMANIAN

W.P.No.22027 of 2006
(O.A.No.6096 of 1996)

V.Senavarayan

...

Petitioner

Vs.

1. The District Educational Officer,
Cuddalore-1.

2. The Headmaster,
Govt. High School,
Veerapperumanallur 607 101.

...

Respondents

O.A.No.6096 of 1996 filed under Section 19 of the Administrative Tribunals Act, subsequently on the abolition of the Tribunal, transferred to this Court in W.P.No.22027 of 2006 for issue of Writ of Certiorari to call for the records in Na.Ka.No.9025 A1/96 dated 24.9.1996 passed by the first Respondent and the consequential order passed by the second Respondent in Na.Ka.No. /96-97 dated 14.10.1996 and quash the same.

For Petitioner ... Mr.S.Mani
For Respondents ... Mr.V.Arun,
Govt.Advocate (W)

सत्यमेव जयते
O R D E R

The petitioner was employed as Middle School Headmaster from 3.8.1968 to 29.2.1972, in Vikravandi Panchayat Union School. After the school was upgraded, the petitioner was posted as Secondary Grade Teacher and subsequently he gained promotion to the post of Tamil Pandit with effect from 4.10.1974.

2. After awarding Special Grade to the petitioner on completion of 20 years of total service, the first Respondent issued an order dated 24.9.1996 seeking to withdraw the Selection Grade and to refix his pay and directed recovery of the alleged excess paid. Challenging the said order dated 24.9.1996, the petitioner filed O.A.No.6096 of 1996 on the file of the Tamil Nadu Administrative Tribunal. The said application has been transferred to this Court in W.P.No.22027 of 2006 after abolition of the Tribunal.

3. I have heard Mr.S.Mani, learned counsel appearing for the petitioner and Mr.V.Arun, learned Government Advocate (Writs), appearing for the Respondents.

4. The posts of Secondary Grade Teacher, Elementary School Headmaster and Middle School Headmaster carried the same scale of pay till 1.10.1970. After the post of Middle School Headmaster was made a superior post with higher pay scale, disputes arose which went up to the Supreme Court. Ultimately, pay protection was given to persons who acted as Middle School Headmasters as on 1.10.1970, in G.O.Ms.No.1436 Education Department, dated 5.10.1990.

5. In a related development, on the question of grant of Selection Grade and Special Grade the Government issued G.O.Ms.No.1178 Education Department, dated 22.12.1993, directing the grant of Selection Grade and Special Grade on completion of 10 years and 20 years of service, to those who held the post of Headmasters of Middle Schools as on 1.10.1970, in the category of Middle School Headmasters. Based upon the said orders, the petitioner was granted the benefit of Special Grade and subsequently it was sought to be withdrawn.

6. It is seen from the order impugned in the writ petition, that one of the main grounds on which the claim of the petitioner was rejected was that he did not function as Middle School Headmaster as on 1.10.1970. But the first Respondent himself has filed a reply, admitting the fact that the petitioner was employed as Middle School Headmaster from 3.8.1968 to 29.2.1972. In more than one place in the reply affidavit, the Respondent has conceded this fact. Therefore, the first reason stated in the impugned order has been admitted to be factually wrong.

7. Moreover, the impugned order does not take into account the orders of the Government in G.O.Ms.No.1178 Education Department, dated 22.12.1993, paragraph 6 of which reads as follows:

"accordingly in suppression of the instructions issued in Govt. Lr.(Ms) No.523 Education dt.1.6.1992, the Government direct that the Headmaster of Middle Schools and the junior Secondary Grade Teachers who acted as Headmasters Middle School on 1.10.1970 and subsequently reverted as Headmasters, Primary School or as Secondary Grade Teacher and who were allowed to retain the pay scale of Headmaster, Middle School based on Supreme Court order be allowed selection grade (Rs.780-1385/Rs.2000-3200) and Special Grade (Rs.905-1545/2200-4000). On completion of minimum period of 10/20 years of service irrespective of whether 10 years of service in the selection Grade is completed or not. Further, Headmaster, Middle School, who were acting in the post of Headmaster, Middle School prior to and after 1-10-1970 shall also be allowed above selection Grade/Special taking into account the total service in the post of Headmaster."

8. As per the aforesaid Government Order, the petitioner is entitled to Special Grade scale of pay of the post of Middle school Headmaster, if he had satisfied two conditions viz.,
(a) that he had acted as Middle School Headmaster on 1.10.1970 and
(b) that he was allowed to retain the pay scale of the post of Middle School Headmaster as per the Supreme Court Order.

9. The fact that the petitioner acted as Middle School Headmaster on 1.10.1970 is admitted by the Respondents themselves in the reply affidavit. Therefore, the petitioner has satisfied the first condition. But in so far as the second condition is concerned, the position of the petitioner is not very clear from the records placed before this Court. Therefore, I am of the considered view that the impugned order is liable to be set aside, for citing a wrong reason and for not taking into account the Government Order in G.O.Ms.No.1178 dated 22.12.1993.

10. Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the first Respondent for a fresh consideration, in accordance with the above observations and pass appropriate orders within a period of three months from the date of receipt of copy of this order. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

gr.

To

1. The District Educational Officer,
Cuddalore-1.

2. The Headmaster,
Govt. High School,
Veerapperumanallur 607 101.

2 ccs to Government Pleader, Sr. 56124, 55681

W.P.NO.22027 of 2006

KSJ (CO)

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